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DOCKET NO. P05792
CLIENT NO. NATI15-05792
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Richard W. Foote, et al.
Serial No.: 10/777,012
Filed: February 11, 2004
For: SEMICONDUCTOR APPARATUS COMPRISING
BIPOLAR TRANSISTORS AND METAL OXIDE
SEMICONDUCTOR TRANSISTORS AND
MANUFACTURING METHOD
Group No.: 2891
Examiner: Steven J. Fulk

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

ELECTION AND RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction Requirement dated August 2, 2005, the Applicants provisionally elect the claims of Group I (Claims 1-21), WITH TRAVERSE.

A Restriction Requirement must provide the particular factual basis for asserting that restriction is necessary. In particular, the "particular reasons ... for holding that the inventions as claimed are either independent or distinct should be concisely stated." (*MPEP* § 816). A "mere statement of conclusion" is inadequate. (*MPEP* § 816). Moreover, in making a restriction, it is

the “claimed subject matter that is considered,” and “such claimed subject matter must be compared in order to determine the question of distinctness or independence.” (*MPEP* § 806.01).

The Restriction Requirement dated August 2, 2005 asserts that Group II and Group I are related as a “process of making” and a “product made.” The Restriction Requirement then states that the groups are distinct if (1) the claimed process can make another and materially different product, or (2) the claimed product can be made by another and materially different process. The Restriction Requirement asserts that restriction is proper because the product claimed in Group I can be made by another and materially different process, such as by “separately manufacturing a double poly bipolar transistor and a double poly MOS transistor on the same substrate.” (*Restriction Requirement, Page 2, Section 2*).

Claim 1 recites a “semiconductor apparatus” that includes “at least one double poly bipolar transistor and at least one double poly metal oxide semiconductor (MOS) transistor.” Claim 22 recites a method that includes manufacturing “at least one double poly bipolar transistor” and “simultaneously” manufacturing “at least one double poly metal oxide semiconductor (MOS) transistor.”

Claim 1 does not recite whether the “at least one double poly bipolar transistor” and the “at least one double poly metal oxide semiconductor (MOS) transistor” are “simultaneously” manufactured. However, Claims 2-21 recite that a first layer of polysilicon material is “simultaneously” doped in the transistors, Claims 7-21 recite that a substrate is “simultaneously” implanted in the transistors, and Claims 13-21 recite that a second layer of polysilicon material is “simultaneously” doped in the transistors. An examination of Claims 2-21 will necessarily

require a determination as to whether the prior art discloses, teaches, or suggests a first layer of polysilicon material in the transistors that is “simultaneously” doped, a substrate in the transistors that is “simultaneously” implanted, and a second layer of polysilicon material in the transistors that is “simultaneously” doped. In other words, an examination of Claims 2-21 will necessarily require a determination as to whether the prior art discloses, teaches, or suggests “simultaneously” manufacturing “at least one double poly bipolar transistor” and “at least one double poly metal oxide semiconductor (MOS) transistor.”

For these reasons, the Applicants respectfully submit that the Restriction Requirement is improper, and the Applicants respectfully request that all claims be examined.

SUMMARY

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting prosecution of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: _____

Aug 31, 2005



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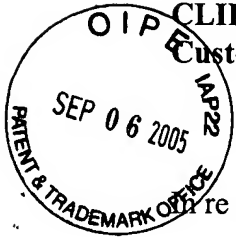
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MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

The undersigned hereby certifies that the following documents:

1. Election and Response to Restriction Requirement; and
2. Postcard receipt

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to, MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **September 2, 2005**.

Date:

September 2, 2005

Mailer

Kathleen J. Munck

Date:

Aug. 31, 2005

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